

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THE FEDERAL DEPOSIT INSURANCE  
CORPORATION, AS RECEIVER OF  
WASHINGTON MUTUAL BANK,

Plaintiff,

vs.

KERRY K. KILLINGER, STEPHEN J.  
ROTELLA, DAVID C. SCHNEIDER,  
LINDA C. KILLINGER, and ESTHER T.  
ROTELLA,

Defendants.

Case No. 2:11-cv-00459

SECOND AMENDED STIPULATION  
AND ORDER TO SET TIME FOR  
DEFENDANTS TO FIRST RESPOND TO  
COMPLAINT AND RELATED  
BRIEFING SCHEDULE

**Note on Motion Calendar: June 16, 2011**

Plaintiff Federal Deposit Insurance Corporation, as Receiver of Washington Mutual Bank ("FDIC") and Defendants Kerry K. Killinger, Linda C. Killinger, Stephen J. Rotella, David C. Schneider, and Esther T. Rotella ("Defendants"), through their respective counsel, submit this Stipulation and [Proposed] Order to modify the date by which Defendants must answer or otherwise first respond to the FDIC's Complaint (Dkt. No. 1) and, to the extent one or more motions to dismiss are filed, the dates by which opposition and reply briefs shall be filed.

**RECITALS**

WHEREAS, the FDIC filed its Complaint in the Western District of Washington on March 16, 2011 (Dkt. No. 1);

WHEREAS, counsel for Defendants agreed to accept service of the Complaint on their behalf;

WHEREAS, the Court previously entered an order extending the time for Defendants to answer or otherwise respond to the Complaint to June 17, 2011 (Dkt. No. 45);

WHEREAS, the parties disclosed in their Joint Status Report, filed on June 13, 2011, that they have been engaged in mediation in an attempt to settle the dispute;

WHEREAS, the parties have now exchanged settlement term sheets reflective of a potential settlement. The parties are diligently working to resolve their remaining disputes. In some instances, the settlement terms must have consent of certain third parties. The parties have reserved additional sessions with the mediator for June 29 and June 30, 2011, in the event they are unable to resolve the matters at issue in the interim;

WHEREAS, the parties agree that it would be counterproductive to their efforts to settle this matter were motion to dismiss briefing to be commenced at this time. They correspondingly agree that it would facilitate the potential settlement of this action if the motion to dismiss briefing were deferred a short additional period of time; and

WHEREAS, the parties jointly respectfully request that the Court extend the time in which defendants are required to file their initial response to the Complaint to and including July 1, 2011, the day after conclusion of the last scheduled mediation session. The proposed schedule revision does not change the existing September 15, 2011 noting date of the motions to dismiss.

**STIPULATION**

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the FDIC and Defendants, that Defendants shall each have until the end of July 1, 2011 to answer or otherwise respond to Plaintiff's Complaint. Any opposition shall be due on August 22, 2011,

and any reply shall be due on September 15, 2011. The changes are shown in the following chart:

Filing	Previous Due Date	New Due Date
Defendants' Answer or First Response to Complaint	June 17, 2011	July 1, 2011
Opposition	August 16, 2011	August 22, 2011
Reply	September 15, 2011	September 15, 2011

IT IS SO STIPULATED.

DATED this 16th day of June, 2011.

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**ORDER**

Based on the foregoing Stipulation,

IT IS HEREBY ORDERED that Defendants shall each have up to and including July 1, 2011 to answer or otherwise respond to the Plaintiff Federal Deposit Insurance Corporation, as Receiver of Washington Mutual Bank's Complaint (Dkt. No. 1) in Case No. 2:11-cv-00459. In addition, any opposition shall be due on August 22, 2011, and any reply shall be due on September 15, 2011.

DATED this 16th day of June, 2011.



Marsha J. Pechman  
United States District Judge

Presented by:

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